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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,123	03/02/2004	Reinhard Berger	LUKP:108US	2635
24041	7590	12/02/2005	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			BONCK, RODNEY H	
		ART UNIT	PAPER NUMBER	3681
DATE MAILED: 12/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/791,123	BERGER ET AL.	
	Examiner Rodney H. Bonck	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 September 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-11,13,14 and 16-19 is/are rejected.
 7) Claim(s) 12,15,20 and 21 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on September 12, 2005 and October 19, 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

The following action is in response to the amendments received September 12, 2005 and October 19, 2005.

Drawings

The drawings were received on September 12, 2005 and October 19, 2005. These "replacement sheets" submitted October 19, 2005 and the "new sheet" submitted September 12, 2005 are acceptable.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed time period of "one second or less" does not appear to have basis in the original disclosure. A time period of between 0.1 and 1 second is disclosed, but now claiming "one second or less" would expand the range beyond that disclosed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language of the claim, "when there is when shifting" is awkward and should be reworded. The intended meaning is not understood.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art described in paragraph [0002] in view of Drexel et al.('290). Paragraph [0002] describes prior art in which friction clutches are operated via a hydraulic disengagement system comprising manually or automatically operated master cylinder and a slave cylinder. The clutch is disengaged in the force-free state of the clutch. Apparently the prior art lacks the claimed pressure relief device. The Drexel et al. device is a clutch system wherein a clutch master cylinder 60 operates a slave cylinder 16. To prevent damage from excess pressure, a pressure relief is provide in the line between the master cylinder and the slave cylinder. It would have been obvious to carry this teaching to the prior art disclosed in applicants' paragraph [0002], the motivation being to protect against excess pressure in the system. To dispose pressure relief devices for plural clutches in the same clutch housing would have been an obvious space-saving expedient to one having ordinary skill in this art.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art described in paragraph [0002] in view of Drexel et al.('290) as applied to claims 1-6 above, and further in view of Kimmig et al.('772). The combination of the admitted prior art and the Drexel et al. device does not necessarily involve incorporating the pressure relief in the master cylinder. The Kimmig et al. device discloses a hydraulic system for clutch operation (see Fig. 15) wherein a pressure relief 667 is integrated into the master cylinder 650. It would have been obvious to incorporate this teaching of Kimmig et al. in the prior art described in paragraph [0002] when

incorporating a pressure relief, the motivation being to reduce the number of separate parts for final assembly.

Claims 8-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art described in paragraph [0002] in view of Drexel et al.('290) as applied to claims 1-6 above, and further in view of Black et al.('392). In providing a pressure relief in the prior art device of paragraph [0002], as taught by Drexel et al., no interconnection between the transmission control and the pressure control would be provided. Black et al., however, suggest providing pressure control 101 of the clutch release mechanically interconnected with the transmission controller 86. It would have been obvious to carry this teaching to the prior art device, the motivation being to provide pressure control during shifting. The rod 102 is considered equivalent to a Bowden cable connecting the transmission control and the pressure control valve.

Claims 8, 14, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art described in paragraph [0002] in view of Drexel et al.('290) as applied to claims 1-6 above, and further in view of Bardoll et al.('234). In providing a pressure relief in the prior art device of paragraph [0002], as taught by Drexel et al., no interconnection between the transmission control and the pressure control would be provided. Bardoll et al., however, suggest providing control of the hydraulically actuated clutches 3, 5 via an electrical connection with transmission

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control 19. It would have been obvious to carry this teaching to the prior art device, the motivation being to provide pressure control during shifting.

Allowable Subject Matter

Claims 12, 15, 20, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murata('409) is cited for its showing of dual fluid actuated clutches. Hayashi et al.('256) shows pressure relief 18 in a clutch actuation fluid circuit.

Response to Arguments

Applicant's arguments filed September 12, 2005 have been fully considered and the rejections based on Hirt et al.(US 2003/0051964 A1) are withdrawn. Amendments to the claims, however, necessitate new grounds of rejection, as set forth above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck
Primary Examiner
Art Unit 3681

rhb

November 28, 2005